IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3241 of 1999
With
SPECIAL CIVIL APPLICATION No. 606 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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G S R T CORPN - Petitioner(s)

Versus

HARNARAYAN MANGALAL ACHARYA - Respondent(s)

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Appearance :

SCA 3241 of 2001:
MRS VASAVDATTA BHATT for Petitioner(s) : 1,
MR YH Vyas for Respondent(s) : 1,

SCA 606 OF 2001:
MR YH Vyas for petitioner
MRS VASAVDATTA BHATT for respondent.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 19/09/2005

ORAL JUDGMENT

Special Civil Application No.3241 of 1999 has been

filed by the ST Corporation challenging the legality of the award dated 10th November 1998 passed by the Labour Court, Ahmedabad in Reference (LCIDAT)No.682/97 and Special Civil Application No.606 of 2001 has been filed by the workman concerned challenging the same award in so far as the same is against the workman.

2. Short facts leading to the petitions are that the workman concerned was working as Conductor with the State Road Transport Corporation. On 11.2.86, the bus in which he was discharging duties as Conductor was checked. It was found that three passengers were not issued tickets though fare of 50 ps. each was collected from them. It was also alleged that the workman misbehaved with the checking squad. On the basis of these charges, departmental inquiry was conducted. The Disciplinary Authority dismissed the workman from service by an order dated 20th November, 1986. This punishment was challenged by the workman by raising an industrial dispute. The Labour Court, Ahmedabad, allowed the reference in part and the workman was ordered to be reinstated in service with continuity. However, backwages were ordered to be paid to the extent of 75 percent from the date of reference till reinstatement.

3. The Labour Court in its impugned award observed that charges were not entirely proved. The allegations of misbehaviour also were not held to have been proved. Therefore,the Labour Court was pleased to allow the reference in part as noted above. During the pendency of the petition, the workman has been reinstated in service. He is due to retire shortly. Learned advocate for the workman also submitted that after his reinstatement, he has not committed any misconduct of similar nature.

4. Considering the overall fact situation, I do not find it appropriate to restore the order of dismissal passed by the employer. However, the order passed by the Labour Court for payment of backwages cannot be sustained. The Labour Court also provided that there will be punishment of withholding of two increments without future effect to be undergone by the workman. This punishment needs to be enhanced.

5. In the result, the award of the Labour Court in so far as the same provides for 75 per cent backwages from the date of reference is set aside. The order for reinstatement with continuity is left unchanged. The

order for punishment of withholding of two increments without future effect is increased to withholding of five increments with future effect. The award of the Labour Court is modified to the above extent. Rule is made absolute to the said extent in Special Civil Application No.3241 of 1999. In view of this order, Special Civil Application No.606 of 2001 is rejected. Rule is discharged. No order as to costs in both the petitions.

(Akil Kureshi, J.)

(vjn)